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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,539	03/13/2001	Diane L. Deering	D15-003-02-US	2687
22854	7590	09/12/2005	EXAMINER	
MOORE, HANSEN & SUMNER, PLLP 225 SOUTH SIXTH ST MINNEAPOLIS, MN 55402			CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/805,539

Applicant(s)

DEERING ET AL.

Examiner

FREDRICK C. CONLEY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,245,717 to Rudy in view of U.S. Pat. No. 777,825 to Wilkes, and further in view of U.S. Pat. No. 4,375,111 to Hall.

In reference to claim 14, Rudy discloses a blanket for substantially covering a user while the user is in a seated or supine position, the pillow blanket comprising: a substantially rectangular blanket 100 having a first surface and a second surface opposing first and second side edges that define the width of the blanket, and opposing top and bottom edges that define the length of the blanket, the blanket having an elongated middle portion with a width that is wholly divisible into the width of the blanket, the middle portion in alignment with and extending the length of the blanket along a longitudinal centerline, and a pair of apertures 111, with the apertures spaced from each other in generally horizontal alignment along either side of the longitudinal centerline of the blanket, with the apertures spaced a predetermined distance from the top edge of the blanket, and with the apertures configured and arranged to receive at least one upper appendage of a user such that the upper appendage may protrude substantially there-through from one surface of the blanket to the other surface of the blanket. Rudy fails to disclose a

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panel. Wilkes discloses a blanket having a panel (D)(fig. 1-2) with first and second side edges and top and bottom edges, with the top and bottom edges of the panel having substantially the same length, with only the first, second, and bottom edges of the panel being connected to the blanket, with the bottom edge of the panel being substantially coincident with the bottom edge of the blanket, and with the length of the bottom edge of the panel being substantially coincident with the width of a middle portion of the blanket, the panel overlying a second surface, and the panel and the blanket forming a pocket uninterrupted along its width between the panel side edges wherein the pocket is constructed and arranged to receive at least one lower appendage of a user. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a panel as taught by Wilkes with the blanket of Rudy in order to protect the feet and ankles and prevent the robe from being displaced or disarranged at its lower end by the user arranging the blanket about the feet. Rudy also fails to disclose the middle portion of the blanket defined by longitudinal fold lines and the blanket received in the pocket when the blanket is folded in a predetermined pattern. Hall discloses a convertible mat defined by longitudinal fold lines 34 and a pocket 35 receiving the mat when folded in a predetermined pattern. It would have been obvious to employ longitudinal fold lines and process to fold the blanket into a pocket as taught by Hall in order to provide a compact storage arrangement which can be disposed within the interior volume of the blanket of Rudy. With regards to the middle portion having a width that is about one-third of the blanket a change in size is considered an obvious modification and it would have been obvious to have the middle portion one-third of the

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blanket in order to provide an adequate width for the blanket to cover the average person. Furthermore, the Applicant has fail to establish the criticality of the dimensions stated above.

Claim 17, wherein the first and second side edges of the panel are substantially the same length, and wherein the length of the first and second side edges is wholly divisible into the length of the blanket (Wilkes).

Claim 18, further comprising at least one sleeve 120, with the sleeve operatively connected to one of the apertures of the blanket, the sleeve configured and arranged to receive the upper appendage of a user as it protrudes through the aperture (Wilkes).

Claim 19, wherein the sleeve and the pocket are on opposite surfaces of the blanket.

Claim 20, Rudy discloses a blanket for substantially covering a user while the user is in a seated or supine position, the pillow blanket comprising:

a substantially rectangular blanket 100 having a first face and a second face, the blanket having first and second side edges that define the width of the blanket and top and bottom edges that define the length of the blanket, the blanket further comprising an elongated middle portion having a width that is about one-third the width of the blanket, the middle portion in substantial alignment with and extending the length of the blanket along a longitudinal centerline,

a pair of apertures 111 spaced a predetermined distance from the top edge of the blanket, with each of the apertures located along a horizontal center line that is generally perpendicular to the longitudinal centerline of the blanket, with the apertures

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spaced apart from each other along either side of the longitudinal centerline, and, a pair of sleeves 120, wherein each of the pair of sleeves includes a first end and a second end, with the first end of each sleeve operatively connected to the blanket at a respective aperture, and wherein the second ends of the pair of sleeves extend away from each other in opposite directions when the blanket is arranged in a generally planar configuration. Rudy fails to disclose a pocket. Wilkes discloses a pocket (D) having a top edge, sides, and a bottom, the pocket having an upwardly facing opening defined by the pocket top edge and the blanket, the pocket in substantial alignment with and extending along a portion of the longitudinal centerline, with the bottom of the pocket extending towards the bottom edge of the blanket, the pocket configured and arranged to either receive at least one lower appendage of a user. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a pocket as taught by Wilkes with the blanket of Rudy in order to protect the feet and ankles and prevent the robe from being displaced or disarranged at it's lower end by the user arranging the blanket about the feet. Rudy also fails to disclose the middle portion of the blanket defined by longitudinal fold lines and the blanket received in the pocket when the blanket is folded in a predetermined pattern. Hall discloses a convertible mat defined by longitudinal fold lines 34 and a pocket 35 receiving the mat when folded in a predetermined pattern. It would have been obvious to employ longitudinal fold lines and pocket as taught by Hall in order to provide a compact storage arrangement which can be disposed within the interior volume of the blanket of Rudy. With regards to the middle portion having a width that is about one-third of the blanket a change in size is

considered an obvious modification and it would have been obvious to have the middle portion one-third of the blanket in order to provide an adequate width for the blanket to cover the average person. Furthermore, the Applicant has fail to establish the criticality of the dimensions stated above.

Claim 21, wherein the pair of sleeves are located on the first face of the blanket and the pocket is located on the second face of the blanket.

Claim 22, wherein the second ends of each of the pair of sleeves extend beyond the respective side edges of the blanket.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Pat. No. 5,245,717 to Rudy in view of U.S. Pat. No. 777,825 to Wilkes, U.S. Pat. No. 4,375,111 to Hall, and further in view of U.S. Pat. No. 6,219,847 to Aikins.

Claim 23, Rudy discloses all of the Applicant's claimed limitations except for at least one of the second ends of the pair of sleeves comprising an expandable cuff.

Aikins discloses a blanket with a narrowed cuff 17 on the ends of a pair of sleeves wherein the narrowed cuff would inherently expand depending on the size of the cuff and the user's hand as the user's hand extends through the opening. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a narrowed cuff as taught by Aikins with the blanket of Rudy in order to securely cover the wrists of the user. Since it is unclear what if any specific material the Applicant is relying on in the claim to provide the expanding of the cuff the interpretation provided above clearly meets the Applicant's claimed limitation of an expandable cuff.

Claims 15-16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable

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over U.S. Pat. No. 5,245,717 to Rudy in view of U.S. Pat. No. 777,825 to Wilkes, U.S.

Pat. No. 3,375,111 to Hall, and further in view of U.S. Pat. No. 6,006,356 to Song.

Claims 15-16, Rudy discloses all of the Applicant's claimed limitations except for the apertures having an oblong shape and an elongated axis that is parallel to the longitudinal centerline of the blanket. Song discloses a rectangular garment having apertures (15,20) with an oblong shape. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the oblong shape as taught by Song wherein and an elongated axis that is parallel to the longitudinal centerline of the blanket of Rudy in order to receive the wearer's arms there-through.

Claim 24, Rudy, as modified, discloses the apertures having an oblique orientation relative to the horizontal center line of the blanket (fig. 1)(Wikes). Rudy fails to disclose the apertures having an oblong shape. Song discloses a rectangular garment having apertures (15,20) with an oblong shape. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the oblong shape as taught by Song wherein and an elongated axis that is parallel to the longitudinal centerline of the blanket of Rudy in order to receive the wearer's arms there-through.



***Response to Arguments***

Applicant's arguments filed 6/13/05 have been fully considered but they are not persuasive.

Contrary to the Applicant's arguments Rudy does disclose a blanket inherently having an elongated middle portion that is wholly divisible into the width of the relaxation article. However, a change in size is considered an obvious modification and it would have been obvious to have the middle portion one-third of the blanket in order to provide an adequate width for the blanket to cover the average person. Furthermore, the Applicant has failed to establish the criticality of the dimensions stated above. The middle portion of Rudy would also inherently extend through the length of the article along a longitudinal center.

Contrary to the Applicant's arguments, the panel piece D does extend substantially coincident with the middle portion of the article as clearly illustrated by the stitch lines shown in figure 1. With regards to the middle portion having a width that is about one-third of the blanket a change in size is considered an obvious modification and it would have been obvious to have the middle portion one-third of the blanket in order to provide an adequate width for the blanket to cover the average person. Furthermore, the Applicant has failed to establish the criticality of the dimensions stated above.

As stated in the rejection, it would have been obvious to one having ordinary skill in the art at the time of the invention to employ a panel as taught by Wilkes with the blanket of Rudy in order to protect the feet and ankles and prevent the robe from being

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displaced or disarranged at its lower end by the user arranging the blanket about the feet. The Examiner is clearly not suggesting modifying the pocket 130 of Rudy but employing a panel along the bottom edge and side edges as suggested by Wilkes.

In response to applicant's arguments against the references individually, such as Rudy does not disclose the pocket wherein the bottom edge being substantially coincident with the bottom edge of the article. As stated in the rejection above, Wilkes discloses a pocket panel D with a bottom edge coincident with the bottom edge of the article (fig. 1-2). The combination of references as a whole would suggest the blanket of Rudy having a panel attached as taught by Wilkes in order to provide a pocket to protect the feet and ankles. Both Rudy and Wilkes disclose articles to cover the body that are clearly capable of being used indoors or outdoors and the combination as a whole would suggest a cover article for the body that covers both the arms and feet of an individual.

Aikins discloses a blanket with a narrowed cuff 17 on the ends of a pair of sleeves wherein the narrowed cuff would inherently expand depending on the size of the cuff, and the user's hand as the user's hand extends through the opening. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a narrowed cuff as taught by Aikins with the blanket of Rudy in order to securely cover the wrists of the user. Furthermore, since it is unclear what if any specific material the Applicant is relying on in the claim to provide the expanding of the cuff the interpretation provided above clearly meets the Applicant's claimed limitation of an expandable cuff.

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In response to applicant's arguments against the references individually, such as Song does not disclose the apertures are parallel to the longitudinal center line of the garment. Rudy clearly discloses the apertures are parallel to the longitudinal center line of the garment (fig. 1). As stated in the rejection, Song discloses apertures (15,20) with an oblong shape. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the oblong shape as taught by Song wherein and an elongated axis that is parallel to the longitudinal centerline of the blanket of Rudy in order to receive the wearer's arms there-through. Although the examiner did not rely on Song to teach sleeves extending away from each other since the apertures have an oblong shape as taught by Song the sleeves would inherently extend away from each other in a planar configuration as illustrated by Song in figure 5.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RC



HEATHER SHACKELFORD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600